

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

LATRELL ADAMS

PLAINTIFF

VS.

CIVIL ACTION NO. 5:08cv154(DCB)(MTP)

JACQUELINE BANKS, SANDRA JACKSON,
AND BRYAN SHUCKROW

DEFENDANTS

ORDER

This cause is before the Court on the defendants Jacqueline Banks, Sandra Jackson and Bryan Shuckrow ("the defendants")'s Motion in Limine to Exclude Mention of Compensatory Damages (**docket entry 245**), and on the plaintiff Latrell Adams' Motion to Strike (Objecting to) Defendant's Motion in Limine (**docket entry 263**). Having carefully considered the motions, and the plaintiff's responses (docket entries 271 and 276) to the motion in limine, and being fully advised in the premises, the Court finds as follows:

In their motion, the defendants contend that the plaintiff alleges only de minimus injuries which are not sufficient to permit recovery of monetary damages. The extent and severity of a plaintiff's injuries are ordinarily determined by the trier of fact. The plaintiff shall be allowed to put on his proof, which can then be challenged by the defendants. The defendants also assert that the plaintiff has no reliable medical testimony or diagnoses to show that his alleged medical problems were caused by environmental tobacco smoke ("ETS"), or by the failure to render

needed medical care. Expert testimony is required to prove causation where the plaintiff's injury involves a sophisticated medical condition. Alberson v. Norris, 458 F.3d 762, 765-66 (8th Cir. 2006). However, the issue of causation may be submitted to a jury if, under the circumstances, a layperson's general experiences and common sense would enable jurors to fairly determine the causal relationship between the event and the condition. Kallassy v. Cirrus Design Corp., 265 F.App'x 165, 166 (5th Cir. 2008). This is a determination that the Court must make at trial.

Accordingly,

IT IS HEREBY ORDERED that the defendants Jacqueline Banks, Sandra Jackson and Bryan Shuckrow's Motion in Limine to Exclude Mention of Compensatory Damages (**docket entry 245**) is DENIED;

FURTHER ORDERED that the plaintiff's Motion to Strike (Objecting to) Defendant's Motion in Limine (**docket entry 263**) is MOOT.

SO ORDERED, this the 4th day of June, 2010.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE